



Billing Code: 9111-A6-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2012-0012]

National Flood Insurance Program Nationwide Programmatic Environmental Impact Statement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability of a final nationwide programmatic environmental impact statement.

SUMMARY: The Federal Emergency Management Agency (FEMA) announces the availability of a final Nationwide Programmatic Environmental Impact Statement (NPEIS) evaluating the environmental impacts of proposed modifications to the National Flood Insurance Program (NFIP). Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality's (CEQs) regulations for implementing the procedural provisions of NEPA, and FEMA's Directive 108-1 titled "Environmental Planning and Historic Preservation Responsibilities and Program Requirements," FEMA has considered comments received on the NFIP Draft NPEIS, which was issued in April 2017, and identifies FEMA's preferred alternative in the NFIP Final NPEIS.

DATES: FEMA will publish a Record of Decision no sooner than 30 days after the date of publication of the U.S. Environmental Protection Agency's Notice of Availability in the *Federal Register*.

ADDRESSES: Electronic versions of the NFIP Final NPEIS are available at the Federal eRulemaking Portal, <http://www.regulations.gov> by searching for Docket ID FEMA-2012-0012.

FOR FURTHER INFORMATION CONTACT: For more information on the NFIP Final NPEIS, contact Bret Gates, FEMA, Federal Insurance and Mitigation Administration, Floodplain Management Division, 400 C Street SW., Washington, DC 20472, or via email at Bret.Gates@fema.dhs.gov, or by phone at 202-646-2780.

SUPPLEMENTARY INFORMATION: Flooding has been, and continues to be, a serious risk in the United States. To address the need, in 1968, Congress established the NFIP as a Federal program to provide access to federally backed flood insurance protection. The NFIP is a voluntary Federal program through which property owners in participating communities can purchase Federal flood insurance as a protection against flood losses. In exchange, communities must enact local floodplain management regulations to reduce flood risk and flood-related damages. However, the power to regulate floodplain development, including requiring and approving permits, establishing permitting requirements, inspecting property, and citing violations, requires land use authority. The regulation of land use falls under the State's police powers, which the Constitution reserves to the States, and the States delegate this power down to their respective political subdivisions. FEMA has no direct involvement in the administration of local floodplain management ordinances or in the permitting process for development in the floodplain.

In addition to providing flood insurance and reducing flood damages through floodplain management, the NFIP identifies and maps the nation's floodplains. Maps

depicting flood hazard information are used to promote broad-based awareness of flood hazards, provide data for rating flood insurance policies, and determine the appropriate minimum floodplain management criteria for flood hazard areas.

The proposed modifications to the NFIP are needed to (a) implement the legislative requirements of the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) and the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA); and (b) to demonstrate compliance with the Endangered Species Act (ESA). As stated in the Draft NPEIS the need to implement the legislative requirements of BW-12 and HFIAA arises from the recent concerns over the fiscal soundness of the NFIP.

This Final NPEIS considers four alternatives and describes the potential environmental effects of each alternative. The four alternatives include:

- Alternative 1 (No Action)

- o The No Action Alternative refers to the current implementation of the NFIP. The No Action Alternative is prescribed by Council on Environmental Quality regulations (40 CFR 1502.14(d)) and serves as a benchmark against which impacts of the alternatives can be evaluated.

- Alternative 2 (Legislatively Required Changes, Floodplain Management Criteria Guidance, and Letter of Map Change [LOMC] Clarification) (Preferred Alternative)

- o Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.

- o Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.

- o Implement a monthly installment plan payment option for non-escrowed flood insurance policies.

- o Clarify that pursuant to 44 CFR 60.3(a)(2), a community must obtain and maintain documentation of compliance with the appropriate Federal or State laws, including the ESA, as a condition of issuing floodplain development permits.

- o Clarify that the issuing of certain LOMC requests (*i.e.*, map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.

- Alternative 3 (Legislatively Required Changes, Proposed ESA Regulatory Changes, and LOMC Clarification)

- o Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.

- o Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.

- o Implement a monthly installment plan payment option for non-escrowed flood insurance policies.
- o Establish a new ESA-related performance standard in the minimum floodplain management criteria at 44 CFR 60.3 that would require communities to obtain and maintain documentation that any adverse impacts caused by proposed development, including fill, to ESA-listed species and designated critical habitat will be mitigated to the maximum extent possible.
- o Clarify that the exception to the no-rise performance standard in the floodway applies only to projects that serve a public purpose or result in the restoration of the natural and beneficial functions of floodplains.
- o Increase the probation surcharge applicable to NFIP communities placed on probation from \$50 to \$100.
- o Clarify that the issuance of certain LOMC requests (*i.e.*, map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.

- Alternative 4 (Legislatively Required Changes, ESA Guidance, and LOMC Clarification)

- o Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.
- o Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15

percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.

- o Implement a monthly installment plan payment option for non-escrowed flood insurance policies.
- o Utilize the existing performance standard in 44 CFR 60.3(a)(2) to implement a new policy/procedure requiring communities to ensure that, for any floodplain development for which a floodplain development permit is sought, the impacts to ESA-listed species and designated critical habitat are identified and assessed and, if there are any potential adverse impacts to such species and habitat as a result of such development, that the community obtain and maintain documentation that the proposed floodplain development will be undertaken in compliance with the ESA.
- o Clarify that the issuance of certain LOMC requests (*i.e.*, map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.

Environmental topics addressed in the Final NPEIS include air quality, noise, land use and planning, geology and soils, water resources, biological resources, cultural resources, aesthetics/visual resources, infrastructure, socioeconomic resources, hazardous waste and materials, and climate change. Best management practices and mitigation measures that could alleviate environmental effects have been considered and are included where relevant within the Final NPEIS. The proposed alternatives do not have natural or depletable resource requirements because they are changes in policy or regulation that do not involve any physical activities for which resources would be

required. For these alternatives, no significant or unavoidable adverse impacts are anticipated.

The Final NPEIS considers comments on the Draft NPEIS, including those submitted during the public comment period that officially began on April 7, 2017 and ended on June 6, 2017, following a 60-day comment period. Appendix M provides the Draft NFIP comments with FEMA responses, and notes revisions in the Final NPEIS.

The NFIP Final NPEIS is available for viewing on the Federal eRulemaking Portal at <http://www.regulations.gov> under Docket ID FEMA-2012-0012.

Authority: 42 U.S.C. 4331 *et seq.*; 40 CFR part 1500; FEMA Instruction 108-1-1.

Dated: October 20, 2017.

Brock Long,
Administrator,
Federal Emergency Management Agency.

[FR Doc. 2017-23902 Filed: 11/2/2017 8:45 am; Publication Date: 11/3/2017]